

THE HONOURABLE SRI JUSTICE C.V. RAMULU

WRIT PETITION NO.19451 OF 1998

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DATED: 20-7-2007

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Between:

Dredging Corporation of India Limited
Non-executive Employees Union (Regd)
Affiliated to INTUC (No.IV/9497), rep. by
its Vice President N. Narsing Rao

.. Petitioner

and

Dredging Corporation of India Limited
(Government of India undertaking),
Dredge House, Port Area,
Visakhapatnam, rep. by its Chairman
and Managing Director and another.

.. Respondents

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ORDER:

This writ petition is filed seeking a mandamus to direct the respondents to fill up 50% of the posts by direct recruitment and 50% of the posts by promotion from among the departmental candidates for E-I grade posts in pursuance of Advertisement No.1/97, dated 28.10.1997 issued by the 1st respondent-Corporation.

It appears, under the impugned Advertisement No.1/97, dated 28.10.1997, applications were invited for induction of management trainees in various disciplines, in all numbering 20, and it was also mentioned therein that, on successful completion of training, the trainees shall be absorbed in E-I grade in the pay scale of Rs.4000-175-7150, with applicable allowances and other benefits. While so, the grievance of the petitioner, Dredging Corporation of India Limited Non-Executive Employees' Union, is that whenever the posts under E-I grade are filled up, 50% of them should be filled by direct recruitment and the remaining 50% by promotion of personnel from the feeder posts; whereas in the impugned notification, a novel method has been adopted and all twenty posts of management trainees in various disciplines have been notified to be filled up by direct recruitment and later on they will be absorbed into E-I grade, after completion of training. Therefore, the issuance of the impugned notification is contrary to the regulations and policy of the Corporation.

A detailed counter-affidavit has been filed on behalf of the respondents denying the allegations made by the petitioner. It is asserted that the present twenty posts of management trainees were

exclusively sanctioned by the Board, without any diversion of any posts from among the existing sanctioned strength. Therefore, the contention of the Union that 50% of the advertised posts shall be filled by direct recruitment and remaining 50% by promotion etc. is not relevant in the present context. Therefore, the writ petition is liable to be dismissed.

Learned counsel for the petitioner strenuously contended that if 50% of the posts are not filled up by promotion from among the departmental candidates and all the twenty posts are filled up by direct recruitment with fresh candidates, and they are absorbed into E-I grade, they will outnumber the departmental promotees in the E-I cadre and, as a consequence, for future promotion to further higher grades, more than 50% of the direct recruitees would be competing, as the departmental candidates, admittedly, would become less than 50%.

I am in full agreement with the submissions made by the learned counsel for the petitioner that if all the twenty posts notified in various disciplines are filled by direct recruitment and are absorbed into E-I grade, they will outnumber the departmental promotees in E-I grade and they would be more than the required number of people allowed under the regular Rules, for competition for being promoted to the further higher posts.

Under these circumstances, the contentions of the learned counsel for the respondents that only at the stage of E-I grade, they are absorbed directly and they will compete with the regularly promoted personnel into E-I grade, and direct recruitment of management trainees will not in any way affect the promotional prospects of the departmental candidates cannot be accepted. Insofar as the

contention of the respondents that these twenty posts, under management trainee scheme, were exclusively sanctioned by the Board without any diversion from among the existing sanctioned strength is concerned, I am of the opinion that if the Board absorbs those candidates into E-1 grade, which is a promotion post for departmental candidates, the newly appointed (management trainees) and absorbed in E-I grade, under management trainee scheme, cannot be permitted to compete with the regular personnel in E-I grade, who have been promoted in the existing sanctioned strength, for future promotion to higher posts. If the management trainees are allowed to compete with the regular personnel in E-I grade, who have been promoted in the existing sanctioned strength, for future promotion to higher posts, that will amount to throwing the members of the petitioner Union against more than 50% of the direct recruits appointed against existing vacancies in E-I grade. This shall not be allowed, particularly, in view of the fact that the management had stated that the appointment of the management trainees, who will be absorbed in E-I grade, is altogether against exclusively sanctioned posts by the Board, without any diversion of any posts from among the existing sanctioned strength in E-I grade.

Accordingly, the writ petition is disposed of. There shall be no order as to costs.

C.V. RAMULU, J

20th July, 2007
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